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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,555	05/04/2001	John Christopher Deak	8325	1137

27752 7590 03/30/2004

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

KUMAR, PREETI

ART UNIT	PAPER NUMBER
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1751

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DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SM
Office Action Summary

Application No.

09/849,555

Applicant(s)

DEAK ET AL.

Examiner

Preeti Kumar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4, 6-8.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Non-Final Rejection

1. Claims 1-43 are pending
2. The examiner would like to point out that it has been held in the courts that the "applicant has [an] obligation to call the most pertinent prior patent to [the] attention of [the] Patent Office in a proper fashion." [Penn Yan Boats, Inc. V. Sea Lark Boats, Inc., et al. 175 USPQ 260 (DC SFla 1972)]. The examiner would appreciate the applicant identifying why the cited reference is pertinent including relevant portions of the document cited.

Claim Objections

3. Claims 11, 15, 34 are objected to because of the following informalities:
Regarding claim 11, the phrase "during after" does not make sense. Regarding claim 15, alternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims. One acceptable form of alternative expression, which is commonly referred to as a Markush group, recites members as being "selected from the group consisting of A, B and C." See *Ex Parte Markush*, 1925 C.D. 126 (Comm'r Pat. 1925). Regarding claim 34, the phrase "and/or" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. Appropriate corrections are required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "improved" in claim 1 is a relative term which renders the claim indefinite. The term "improved" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-43 are rejected under 35 U.S.C. 103(a) as obvious over Madore et al. (US 5,057,240).

Madore et al. teach a liquid detergent having fabric softening properties and including an improved fabric softening agent. The fabric softening agent is a silicone fabric softening agent selected from a polyorganosiloxane; a polydiorganosiloxane gum; or a mixture of the said gum with either a low viscosity polydiorganosiloxane or with a volatile cyclic silicone such as octamethylcyclotetrasiloxane or decamethylcyclopentasiloxane. Certain emulsions of a highly branched and cross-linked silicone polymer may also be employed. See abstract and col.5, ln.35-46. Specifically regarding the amount of silicone polymer, Madore et al. teach that the volatile cyclic silicone constitutes about 90% by weight based on the total weight of the silicone mixture. The volatile cyclic silicone must be sufficiently volatile to evaporate at room temperature, and exemplary materials are octamethylcyclotetrasiloxane, decamethylcyclopentasiloxane, or mixtures thereof. See col.2, ln.60-65.

Regarding adjunct agents, Madore et al. teach the liquid detergent of the present invention may contain many of the commonly included ingredients such as surfactants, builders, enzymes and enzyme stabilizers, pH modifiers, bleach activators and bleaches, antifoams, anti-redeposition agents, chelants, soil release polymers, dye transfer protectants, zeolite dispersants, water softeners, perfumes, anti-oxidants, and fluorescent brighteners, the essential ingredients for purposes of the present invention are an anionic surfactant, a nonionic surfactant, a carrier fluid, and the softening agent. See col.3, ln.22-32 and col.6, ln.5-15.

In example I Madore et al. illustrate silicones emulsified in a detergent matrix comprising surfactant and other adjunct components. See col.5,ln.65-col.6, ln15. In

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example II Madore et al. illustrate removing textile conditioners from cotton polyester terry towels in order to strip fibers of conditioners applied at the mill during manufacture of the towels. Thus, Madore et al. teach that these fibers were washed and dried prior to exposure to the lipophilic fluid. See col.6, ln.50-67.

In examples III and IV, Madore et al. illustrate a liquid detergent composition having fabric softening properties comprising a quarternary ammonium softener, octamethylcyclopentasiloxane solvent and water for use in a standard washing machine. See col.7-8. Madore et al. teach the use of similar materials (i.e. decamethylcyclopentasiloxane) and at the similar temperature in the analogous process of cleaning fabrics.

Also, in example III Madore et al. illustrate that the fabric bundle was loaded into a washing machine and about fifty grams of liquid detergent containing a softening agent was added to the washing machine. The washing machine controls were established to provide a warm water wash (35.degree. C.) and a cold water rinse. The duration of the wash cycle of the particular washing machine employed was about fourteen minutes. At the end of the cycle of the washing machine, the bundle was dried in a dryer for about one hour. Each bundle was exposed to two complete cycles including washing and drying. See col.7, ln.25-40. Thus Madore et al. teach that the fibers were washed and dried after exposure to the lipophilic fluid and extraction of the lipophilic fluid.

However, Madore et al. do not specifically teach the step of exposing the fabric to an aqueous vapor at the specified temperature or the specific droplet sizes as recited by

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the instant claims. Also Madore et al. do not teach that the aqueous vapor is "pulsed". It is reasonable to presume that aqueous vapor can be "pulsed" by non-continuous application of the aqueous vapor to the fabric during the tumbling and spinning action in the dryer. See Applicant's specification page 13, ln.3-11

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to expose the fabric to an aqueous vapor which is pulsed as recited by the instant claims because Madore et al. teach that the fibers are washed in warm water and cold water rinses and then dried in a tumble dryer, wherein the fabrics would be exposed to the non-continuous application of aqueous vapor droplets to the fabric during the tumbling and spinning action in the dryer. Furthermore, Madore et al. are silent as to the specific drying temperature and droplet size of the aqueous vapor but the teachings of Madore et al. are expected to encompass the broad range of temperature and droplet size as recited by the instant claims because Madore et al. teach an analogous method of treating fabric with an analogous lipophilic fluid and drying the fabric in a conventional tumble dryer which would also function to expose the fabric to an aqueous vapor in general.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Preeti Kumar
Examiner
Art Unit 1751

PK


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